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United States Government **Department of Energy**

memorandum

DATE: May 16, 2000

REPLY TO ATTN OF: Office of Environmental Policy and Guidance: Boulos: 6-1306

SUBJECT: INFORMATION-RECENT CLEAN AIR ACT-RELATED FEDERAL REGISTER NOTICES: SEPTEMBER 1999-March 2000

TO: Distribution

EH-412 has been routinely distributing material on Environmental Protection Agency (EPA) clean air-related Federal Register (FR) notices not otherwise transmitted to program and field offices in order to make the Departmental complex aware of information that may be of relevance to its operations. Attached are summaries of clean air-related FR notices published during the period September 1999 to March 2000.

Questions pertaining to the notices related to hazardous air pollutants should be directed to Emile Boulos of my staff (emile.boulos@eh.doe.gov; 202-586-1306), Questions on the remaining notices should be directed to Ted Koss of my staff (theodore.koss@eh.doe.gov; 202-586-7964).

(original was signed by Andy Wallo)
Andrew Wallo III
Director
Air, Water and Radiation Division

Attachment

ATTACHMENT

Clean Air Act (CAA) -related Federal Register(FR) Notices Published During the Period September 1999 to March 2000.

- **WITHDRAWAL OF DIRECT FINAL RULE: 40 CFR 16523, "Extension of Operating Permits Program Interim Approvals", (65 FR 16523; March 29, 2000).**

  Due to an adverse comment, EPA is withdrawing the February 14, 2000, direct final rule (65 FR 7290): "Extending Operating Permits Program Interim Approval Expiration Dates". This rule would extend the expiration dates by which interim approval of State or local operating permits programs will expire until June 1, 2002. The withdrawal of the rule will only affect those programs with interim approval as opposed to full approval. Effective date of this action is March 29, 2000.

  On February 14, 2000, EPA published a direct final rule (65 FR 7290) and a parallel proposal (65 FR 7333) to amend Appendix A of the 40 CFR Part 70 operating permits regulations. This amendment would extend until June 1, 2002 the expiration dates of all interim approvals of State or local operating permits programs. The purpose of this action was to allow State and local permitting authorities to combine the operating permits program revisions necessary to correct interim approval deficiencies with program revisions necessary to implement the revisions to the Part 70 regulations that are now anticipated to be promulgated in late 2001. This action would allow the permitting authorities to preserve resources by preparing and submitting to EPA only one program revision instead of two.

  The EPA stated in the direct final rule (65 FR 7291; February 14, 2000) that if relevant, adverse comments were received by March 15, 2000, EPA would publish a notice to withdraw the direct final rule before its effective date of May 30, 2000. The EPA received an adverse comment on the direct final rule and, therefore, is withdrawing the direct final rulemaking action. The adverse comment stated that the action was contrary to the express terms of the Clean Air Act. The EPA will address this comment on the withdrawn amendment in the subsequent final action on the proposed amendment.

- **FINAL RULE: 40 CFR Part 63, "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production", (65 FR 15690; March 23, 2000).**

  On March 23, 2000 the EPA issued a final rule to reduce hazardous air pollutants emitted from secondary aluminum production plants. This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at secondary aluminum production facilities (facilities that recover aluminum from scrap such as beverage cans, foundry returns, other aluminum scrap, and dross).

  Hazardous air pollutants (HAPs) emitted by the facilities that would be regulated by this final rule include organic HAPs, inorganic gaseous HAPs (hydrogen chloride, hydrogen

fluoride, and chlorine), and particulate HAP metals. Some of these pollutants, including 2,3,7,8-tetrachlorodibenzo-p-dioxin, are known or suspected carcinogens, and all can cause toxic effects in humans following sufficient exposure. Emissions of other pollutants include particulate matter and volatile organic compounds.

These standards implement section 112(d) of the Clean Air Act (CAA) and are based on the Administrator's determination that secondary aluminum production facilities are major sources of HAP emissions and emit several of the HAPs listed in section 112(b) of the CAA from the various process operations found within the industry.

Entities potentially regulated by this action are secondary aluminum production facilities using clean charge, post-consumer scrap, aluminum scrap, ingots, foundry returns, dross, or molten metal as the raw material, and performing one or more of the following processes: aluminum scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (i.e., melting, holding, refining, fluxing, or alloying), in-line fluxing, or dross cooling. The EPA identified an estimated 3,000 facilities potentially affected by the rule (including sweat furnaces, die casting facilities, and foundries) Secondary aluminum production facilities that are area sources would be subject to limitations on emissions of dioxins and furans (D/F) only.

The final rule will provide protection to the public health by requiring secondary aluminum production facilities to meet emission standards reflecting application of the maximum achievable control technology (MACT). Implementation of this rule will reduce nationwide emissions of air toxics by about 70% from current levels. This regulation is effective March 23, 2000. A fact sheet is available at: http://www.epa.gov/ttn/oarpg/amend.html.

- **NOTICE OF DOCUMENT AVAILABILITY AND REQUEST FOR COMMENTS, "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-1998", (65 FR 11314; March 2, 2000)**.

The Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-1998 is available for public review. Annual U.S. emissions for the period of time from 1990-1998 are summarized and presented by source category and sector. The inventory contains estimates of carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFC), perflourocarbons (PFC), and sulfur hexaflouride (SF6) emissions. The inventory also includes estimates of carbon sequestration in U.S. forests and, new this year, estimates of soil carbon.

The technical approach used in this report to estimate emissions and sinks for greenhouse gases is consistent with the methodologies recommended by the Intergovernmental Panel on Climate Change (IPCC). The Inventory of U.S. Greenhouse Gas Emissions and Sinks is the latest in a series of annual U.S. submissions to the Secretariat of the United Nations Framework Convention on Climate Change. The document referenced above may be viewed and downloaded from the US EPA global warming site at http://www.epa.gov/globalwarming/publications/emissions/.

- **FINAL RULE: 40 CFR Part 51, "Technical Amendment to the finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone", (65 FR 11222; March 2, 2000).**

  The EPA revised the nitrogen oxides (NOx) statewide emissions budgets for the 22 States and the District of Columbia which are required to submit State implementation plan (SIP) revisions to address the regional transport of ozone (also referred to as the (NOx SIP call), (63 FR 57356; October 27, 1998). These revisions are mainly based on comments received for emissions inventory revisions to 2007 baseline information used to establish each State's budget during the comment periods for both the NOx SIP call and the "Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone", which was published on May 14, 1999.

  EPA anticipates that full implementation of the NOx SIP call reduce total NOx emissions by 1.111 million tons in the 2007 ozone season. This rule is effective April 3, 2000. Documents related to this notice are available on EPA's website at: http://www.epa.gov/ttn/oarpg/otagsip.html; and http://www.epa.gov/ttn/rto/.

- **NOTICE OF DESIGNATION AND RECEIPT OF APPLICATION: 40 CFR Part 53, "Ambient Air Monitoring Reference and Equivalent Methods: Designation of a New Equivalent Method for O3", (65 FR 11309; March 2, 2000).**

  The Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, a new equivalent method for measuring concentrations of O3 in ambient air. In accordance with regulations at 40 CFR Part 53, the EPA examines various methods for monitoring the concentrations of certain pollutants in the ambient air Methods that are determined to meet specific requirements for adequacy are designated as either reference or equivalent methods, thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining attainment of the National Ambient Air Quality Standards.

  EPA hereby announces the designation of a new equivalent method for measuring O3 in ambient air. This designation is made under the provisions of 40 CFR Part 53, as amended on July 18, 1997 (62 FR 38764). The new equivalent method for O3 is an automated method which utilizes the measurement principle based on UV photometry. The designation of this equivalent method is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR Part 58.

- **PROPOSED RULE: 40 CFR Part 51, "Stay of the Eight-Hour Portion of the Findings of Significant Contribution and Rulemaking for Purposes of Reducing Interstate Ozone Transport", (65 FR 11024; March 1, 2000).**

  The EPA proposed to amend a final rule it issued under section 110 of the Clean Air Act (CAA) related to interstate transport of pollutants. The EPA proposed to stay its finding in the nitrogen oxides State Implementation Plan Call (NOx SIP Call) related to the 8-hour ozone standards. In the final NOx SIP Call, EPA found that emissions of NOx from 22 States and the District of Columbia (23 States) significantly contribute to downwind areas' nonattainment of the 1-hour ozone National Ambient Air Quality Standards (NAAQS).

The EPA also separately found that NOx emissions from the same 23 States significantly contribute to downwind nonattainment of the 8-hour ozone NAAQS. The revised 8-hour ozone standards were remanded in American Trucking Associations, Inc. v. EPA, 175 F.3d 1027 (D.C. Cir. 1999).

On May 14, 1999, the D.C. Circuit issued an opinion questioning the constitutionality of the CAA authority to review and revise the NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. See American Trucking Ass'ns v. EPA No. 97-1441 and consolidated cases (D.C. Cir. May 14, 1999). Based on the statutory provisions regarding classifications and attainment dates under sections 172 (a) and 181(a), the Court's ruling curtailed EPA's ability to require States to comply with a more stringent ozone NAAQS.

The EPA's belief is that EPA should not continue implementation efforts under section 110 with respect to the 8-hour standard that could be construed as inconsistent with the Court's ruling. In light of the uncertainty, EPA believes the most prudent course would be to remove the 8-hour findings as an independent basis for the SIP Call.

- **NOTICE OF AVAILABILITY: "Guidance Memoranda Relating to the One-Hour Ozone Attainment Demonstrations", (65 FR 8703; February 22, 2000).**

On February 22, 2000, EPA issued two guidance memoranda for public review on requirements for one-hour ozone attainment demonstration State implementation plans (SIPs). The guidance memoranda are entitled: "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations", (November 3, 1999), and "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas", (November 30, 1999). These documents are available for public inspection at EPA's website at: www.epa.gov/oms/traq (under conformity); and www.epa.gov/ ttn/oarpg/ramain.html respectively.

- **DIRECT FINAL RULE: 40 CFR Part 70, "EXTENDING OPERATING PERMITS PROGRAM INTERIM APPROVAL EXPIRATION DATES", (65 FR 7290; February 14, 2000).**

This action amends the operating permits regulations of EPA. Those regulations were originally promulgated on July 21, 1992. These amendments extend up to June 1, 2002, all operating permits interim approvals. This action will allow permitting authorities to combine the operating permits program revisions necessary to correct interim approval deficiencies with program revisions necessary to implement the revisions that are anticipated to be promulgated in late 2001.

The direct final amendments are effective on March 30, 2000. A companion proposal to this direct final rule was being published in the Federal Register, (65 FR 7333; February 14, 2000). If relevant adverse comments were received on or before March 15, 2000. EPA would inform the public that this rule will not take effect, and the comments will be addressed in a subsequent final rule based on the proposed rule. If no relevant adverse comments on this direct final rule are filed, then the direct final rule would become effective on March 30, 2000.

- **NOTICE OF DESIGNATION: 40 CFR Part 53, "Ambient Air Monitoring Reference and Equivalent Methods: Designation of a New Equivalent Method for SO2", (65 FR 2610; January 18, 2000).**

  The Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, as amended on July 18, 1997 (62 FR 38764), a new equivalent method for measuring concentrations of SO2 in ambient air. In accordance with regulations at 40 CFR Part 53, the EPA examines various methods for monitoring the concentrations of certain pollutants in the ambient air. Methods that are determined to meet specific requirements for adequacy are designated as either reference or equivalent methods, thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining attainment of the National Ambient Air Quality Standards.

  EPA hereby announced the designation of a new equivalent method for measuring SO2 in ambient air. The new equivalent method for SO2 is an automated method which utilizes the measurement principle based on UV fluorescence. For such purposes, the method must be used in strict accordance with the specifications and limitations of the operation manual associated with the method.

- **FINAL RULE AMENDMENTS: 40 CFR Part 63, "Title V Operating Permit Deferrals for Area Sources: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; Ethylene Oxide Commercial Sterilization and Fumigation Operations; Perchloroethylene Dry Cleaning Facilities; Halogenated Solvent Cleaning Machines; and Secondary Lead Smelting", (64 FR 69637; December 14, 1999).**

  The purpose of EPA's amendments was to allow permitting authorities to defer Clean Air Act (CAA) title V operating permit requirements until December 9, 2004, for area sources of air pollution that are subject to five NESHAPs. The regulated categories and entities potentially affected by this action include area sources listed in 40 CFR, Sec. 63.320, perchloroethylene dry cleaning, Sec. 63.340, chromium electroplating, Sec. 63.360, ethylene oxide sterilizers, Sec. 63.460, halogenated solvent cleaners, and Sec. 63.541, secondary lead smelters.

  These amendments would relieve industrial sources, State, local, and tribal agencies, and the EPA Regional Offices of an undue regulatory burden during a time when available resources are needed to implement the title V permit program for major sources. Under these amendments, sources must continue to meet all applicable requirements, including all applicable emission control, monitoring, recordkeeping, and reporting requirements established by the respective NESHAP.

  This deferral is also an opportunity for EPA to revise the relevant regulations in order to improve their understandability, as directed by President Clinton's June 1, 1998, Executive Memorandum on Plain Language in Government Writing.

- **FINAL RULE AMENDMENTS: 40 CFR Part 63, " National Emission Standards for Hazardous Air Pollutants: Haloginated Solvent Cleaning", (64 FR 67793; December 3, 1999).**

EPA promulgated these final rule amendments to the "National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning" originally promulgated on December 2, 1994 (59 FR 61801). These amendments to the rule that were proposed on August 19, 1999 (64 FR 45221), finalize compliance options for continuous web cleaning machines, as well as amendments to the national emission standards for hazardous air pollutants (NESHAP) that apply to steam-heated vapor cleaning machines and to cleaning machines used to clean transformers. The EPA finalized these amendments to ensure that all owners or operators of solvent cleaning machines have appropriate and attainable requirements for their cleaning machines.

The changes contained in these final rule amendments are corrections, clarifications, and equivalent compliance alternatives and do not change the intended coverage of the halogenated solvent cleaning (HSC) NESHAP (40 CFR 63 subpart T).

These changes will not affect the estimated emission reductions or the control costs for these rules. These clarifications and corrections should make it easier for owners and operators of affected sources, and for local and State authorities, to understand and implement the requirements in subpart T. The equivalent compliance alternatives will make it possible for owners and operators of continuous web cleaning machines to comply with all requirements of subpart T. This final rule is available at: http://www.eh.doe.gov/oepa/rules/64/64fr67793.pdf on the Office of Environmental Policy and Guidance (EH-41) Home Page.

- **FINAL RULE: 40 CFR Part 52, "Final Rule To Extend Stay of Action on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport", (64 FR 67781; December 3, 1999).**

The EPA extended the temporary stay of the effective date of the May 25, 1999 final rule (64 FR 28250) regarding petitions filed under section 126 of the Clean Air Act (CAA) until January 10, 2000. On May 25, 1999 (64 FR 28250), EPA made final determinations that portions of the petitions filed by eight Northeastern States under section 126 of the CAA were technically meritorious.

The petitions sought to mitigate what they described as significant transport of one of the main precursors of ground-level ozone, nitrogen oxides (NOx) across State boundaries. Each petition specifically requested that EPA make a finding that certain stationary sources emit NOx in violation of the CAA's prohibition on emissions that significantly contribute to nonattainment problems in the petitioning State. On June 24, 1999 (64 FR 33956), EPA issued an interim final rule to temporarily stay the effectiveness of the May 25 final rule regarding the section 126 petitions until November 30, 1999.

The purpose of the interim final rule was to provide EPA time to conduct notice-and-comment rulemaking addressing issues raised by two recent rulings of the U.S. Court of Appeals for the District of Columbia Circuit (D.C.Circuit). The final rule of December 3, 1999 will prevent findings under section 126 from being automatically triggered on November 30, 1999 under the mechanism in the May 25 rule. This extension of the stay does not affect the compliance date of May 1, 2003 for emission reductions under the section 126 rule. Also, the affected entities will have notice of the requirements under section 126 as of the date that EPA signs and releases the final section 126 rule to the public.

- **FINAL RULE: Technical Correction: 40 CFR Parts 63, 261, and 266, "NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors", (64 FR 63209; November 19, 1999).**

  On June 19, 1998, EPA published the Revised Standards for Hazardous Waste Combustors Final Rule, (63 FR 33782), and on September 30, 1999, published the Hzardous Waste Combustors NESHAP Final Rule, (64 FR 53076). In this action of November 19, 1999, EPA clarified its intention associated with the Notification of Intent to Comply (40 CFR 63.1210), and Progress Report requirements of the 1998 rule (40 CFR 63.1211). EPA also corrected a typographical error in the comparable fuels specification table.

  The error occurred by inserting the standard for Arsenic which appeared below Antimony in the table. The correct value for the Antimony specification should be a concentration limit of 12 mg/Kg at 10,000 BTU/lb. Additionally, EPA amended the Appendix VIII table, (40 CFR Part 266), entitled "Organic Compounds for Which Residues Must Be Analyzed", by including a note to the table that states testing is required for only those organic compounds for which an F039 nonwastewater concentration limit is identified.

- **NOTICE: "National Emission Standards for Hazardous Air Pollutants: Revision of Source Category List and Schedule for Standards Under Section 112 of the Clean Air Act", (64 CFR 63025; November 18, 1999).**

  On November 18, 1999, EPA published revisions to the list of categories of major and area sources and revisions to the schedule for the promulgation of standards for sources of hazardous air pollutants (HAPs). These revisions are required under section 112(c) and (e) of the Clean Air Act (CAA), and constitute a significant part of EPA's agenda for regulating stationary sources of air toxics emissions. This notice met the requirement in section 112(c)(1) to publish periodically, but at least once every 8 years, a list of all categories of sources reflecting revisions since the list of 174 categories of major and area sources referred to as "initial list" was published on July 16, 1992, for which EPA developed emission standards.

  EPA announced, in this notice all list and schedule changes, as well as proposed changes, that have occurred since the last updated list of February 12, 1998 (63 FR 7155) and the schedule on May 17, 1999 (64 FR 26743). There were also a few anticipated future actions which are being announced in this notice. The list of changes, along with the affected source categories include: Change to Source Category Names, Correction to Previous Notice, Changes to the Promulgation Schedule, Addition of Source Categories, Deletion of Source Categories, Reassignment of a Source Category, and Changes to Scope of Source Category.

- **FINAL RULE: 40 CFR Part 63, "National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works", (64 FR 57572; October 26, 1999).**

  On October 26, 1999, EPA issued a final rule on the national emission standards for hazardous air pollutants (NESHAP) for new and existing publicly owned treatment works (POTW). The primary hazardous air pollutants (HAP) emitted by these sources include

xylenes, methylene chloride, toluene, ethyl benzene, chloroform, tetrachloroethylene, benzene, and naphthalene. With this final rule, the EPA required air pollution controls on a new or reconstructed treatment plant at a POTW that is a major source of HAP.

The HAP emitted by POTW originate in wastewater streams discharged by industrial, commercial, and domestic sources. Emissions from these wastewaters can occur within the collection system (sewers) as well as during treatment at the POTW. There are approximately 16,000 POTW nationwide that receive and treat approximately 113.6 million cubic meters per day (30 billion gallons per day) of domestic, commercial, and industrial wastewater.

Section 112(e)(5) of the CAA defines POTW by referring to the definition of treatment works in title II of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act. As set forth in section 212(2), 33 U.S.C. 1292(2), treatment works include the wastewater treatment units themselves, as well as intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment. Any of these devices which are publicly owned may be a POTW.

Section 112(n)(3) of the CAA provides a summary of the final standards contained in 40 CFR Part 63, subpart VVV. This subpart is applicable only to POTW that are located at facilities which are major sources of HAP emissions. In addition, the final rule exempts facilities which are not required to develop a pretreatment program under 40 CFR Part 403. Section 112(a)(1) of the CAA defines a major source as: any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential-to-emit considering controls, in the aggregate 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

This final rule is available at http://www.eh.doe.gov/oepa/rules/64/64fr57572.pdf on the Office of Environmental Policy and Guidance (EH-41) Home Page.

- **PROPOSED RULE: 40 CFR Part 51, "AIR Quality Revision to Definition of Volatile Organic Compounds-Exclusion of t-Butyl Acetate", (64 FR 52731; September 30, 1999).**

On September 30, 2000, EPA issued a proposed rule to revise the definition of volatile organic compounds (VOC) for purposes of Federal regulations related to attaining the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA). This proposed revision would add t-butyl acetate (also known as tertiary butyl acetate or informally as TBAC or TBAc) to the list of compounds excluded from the definition of VOC, (40 CFR 100(s)), on the basis that this compound has negligible contribution to tropospheric ozone formation. The tropospheric ozone, commonly known as smog occurs when VOCs and nitrogen oxides(NOx) react in the atmosphere.

When EPA determines that a chemical is less reactive than ethane, EPA considers the chemical negligibly reactive and can exclude it from the definition of VOC. TBAc is less reactive than ethane on a per-gram basis. In early 1970s, EPA conducted a series of smog chamber experiments. In those experiments individual organic compounds at the concentration of 4 parts per million (ppm) were subjected to simulated ambient urban (Los Angeles) conditions, and resultant maximum ozone build-up in the chamber was measured.

Those compounds which resulted in ozone concentration lower than that of the oxidant air quality standard, i.e., 0.08 ppm, were taken to be "negligibly reactive" Ethane was one of the compounds EPA studied. Based on those findings and judgments, EPA designated ethane as negligibly reactive and ethane became the benchmark VOC species.

- **NOTICE OF AVAILABILITY, "Draft Guidance for improving Air Quality Through Economic Incentive Programs", (64 FR 50086; September 15, 1999).**

On September 15, 1999, EPA announced the availability of draft guidance for States that wish to use an economic incentive program (EIP) to achieve air quality improvements. The draft guidance "Draft Economic Incentive Program Guidance (EPA-452/D-99-001, July 1999) is a comprehensive update of EPA's 1994 EIP rule and guidance. (59 FR 16690), with regard to discretionary EIPs. It also incorporates some components of EPA's 1995 proposed model rule for open market trading (60 FR 39668), as well as the comments received on that proposed rule.

EPA seeks to encourage cost effective and innovative approaches for achieving air quality requirements, and at the same time, maintain the enforceability and accountability of more traditional air quality management approaches. The EIP guidance would have no direct regulatory consequences when finalized. The proposed draft outlines a variety of economic incentive programs, and provides advice to States on choosing the best type of program to meet their objectives. States can then develop or revise their implementation plans to incorporate an EIP that will meet national air quality objectives, and achieve an overall benefit to the environment. The draft guidance is available at http://www.epa.gov/ttn/oarpg. under the heading titled "What's New".